

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : 02 Cr. 405 (CBA)

v. : Filed: April 3, 2002

JOHN AMITRANO, : Violation: 18 U.S.C. § 666(a)(1)(A)

Defendant. :

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INFORMATION

The United States of America, acting through its attorneys, charges:

1. John Amitrano ("Amitrano") is hereby made a defendant on the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Information:

2. Amitrano was a resident of Valley Stream, New York.
3. The County of Nassau, State of New York ("Nassau County"), through its Sheriff's Department, maintained and operated the Nassau County Correctional Center ("NCCC"), a correctional facility located in East Meadow, New York. Nassau County received more than \$10,000 in federal assistance in any one-year period.
4. Amitrano worked at the NCCC as a Correctional Cook Supervisor, and held the honorific title of sergeant with the Sheriff's Department. He supervised the NCCC kitchen staff and was authorized by NCCC to purchase goods and services for use at its kitchen from approved vendors. He directed the purchase of

such goods and services and indicated their receipt by signing, or causing others to sign, invoices, which were in turn forwarded to other Nassau County offices for payment.

5. The Nassau County Department of General Services ("Nassau DGS") was the agency responsible for managing procurement on behalf of the agencies of Nassau County, including the NCCC. It awarded contracts for the supply of food after soliciting competitive bids.

6. Nick Penachio Co., Inc. ("Penachio Co.") was a New York State corporation located in the Bronx, New York. Penachio Co. was primarily a vendor of food. Nassau DGS awarded contracts to Penachio Co. after receiving bids pursuant to its competitive bidding policy.

7. Nicholas A. Penachio ("Penachio") was the president and a part-owner of Penachio Co.

8. Selwyn Lempert ("Lempert") was an employee of the Penachio Co., with primary responsibility for submitting bids to Nassau DGS and making sales to the NCCC.

II. DESCRIPTION OF THE OFFENSE

9. From approximately November 1996 until approximately July 1998, the exact dates being unknown to the United States, the defendant and co-conspirators did knowingly, intentionally, and willfully embezzle, steal, obtain by fraud, convert, and obtain without authority, and intentionally misapply property worth more than \$5,000 that was owned by, and was under the care, custody, and

control of, Nassau County, in violation of Title 18, United States Code, Section 666(a)(1)(A).

10. In approximately November 1996, Amitrano and Lempert, with Penachio's knowledge and approval, agreed to steal money from Nassau County by causing Penachio Co. to receive payment for food it had not delivered and did not intend to deliver to the NCCC. They further agreed that Amitrano would receive in cash approximately one-half of the money Nassau County paid to Penachio Co. pursuant to this scheme.

11. Beginning in approximately November 1996, Amitrano and Lempert, with Penachio's knowledge and approval, caused Penachio Co. to create false and fraudulent invoices to the NCCC. Amitrano and Lempert caused Penachio Co. to create approximately \$48,000 worth of false and fraudulent invoices, of which approximately \$42,000 worth were submitted for payment and paid. The invoices were false and fraudulent in that they sought payment for food that had not been delivered and was not intended to be delivered to the NCCC. Amitrano facilitated the payment of approximately \$42,000 of the false and fraudulent invoices by signing the invoices, or by causing another employee of the NCCC to sign them, thereby attesting that the NCCC had received the items listed on the invoices when, in fact, it had not. After receiving the false and fraudulent invoices from Penachio Co., Nassau County then paid Penachio Co. by issuing checks to it.

12. From approximately November 1996 to approximately December 1997, Amitrano received approximately \$20,000 in cash from Lempert as his share of the

false and fraudulent invoices for which Penachio Co. had received payment.

13. In approximately December 1997, Amitrano told Lempert that they should discontinue their scheme because he was being investigated in connection with allegations that he had misappropriated food purchased for the NCCC.

14. In approximately July 1998, after Amitrano had been notified that the investigation was closed and that no official action would be taken, Amitrano and Lempert agreed to resume their scheme. Lempert then created false invoices totaling approximately \$6,000 for Amitrano to sign. However, Lempert never gave

those invoices to Amitrano to sign because he was instructed by Penachio to end his fraudulent scheme with Amitrano.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 666(a)(1)(A)

Dated:

CHARLES A. JAMES
Assistant Attorney General

RALPH T. GIORDANO
Chief, New York Office

JAMES M. GRIFFIN
Deputy Assistant Attorney General

REBECCA MEIKLEJOHN

SCOTT D. HAMMOND
Director of Criminal Enforcement

DOUGLAS M. TWEEN

Antitrust Division
U.S. Department of Justice

ELIZABETH B. PREWITT

Attorneys

ALAN VINEGRAD
United States Attorney
Eastern District of New York

Antitrust Division
U.S. Department of Justice
26 Federal Plaza, Room 3630
New York, New York 10278
(212) 264-0654